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UBER TECHNOLOGIES, INC.
14 and OTTOMOTTO LLC

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 WAYMO LLC,
19 Plaintiff,
20 v.
21 UBER TECHNOLOGIES, INC.,
22 OTTOMOTTO LLC;
OTTO TRUCKING LLC,
23 Defendants.

Case No. 3:17-cv-00939-WHA

**DEFENDANTS UBER TECHNOLOGIES,
INC. AND OTTOMOTTO LLC'S PARTIAL
OPPOSITION TO PLAINTIFF'S MOTION
TO MODIFY THE COURT'S
MAY 19 ORDER (DKT. 471)**

Judge: The Honorable William Alsup

Trial Date: October 2, 2017

1 Defendants Uber Technologies, Inc. and Ottomotto LLC (collectively, “Uber”) do not
2 oppose reinstatement of the May 31 deadline for Uber to comply with Item #2 of the Court’s
3 Preliminary Injunction Order (Dkt. 433 at 23) with respect to “all other officers, directors,
4 employees, and agents of defendants” apart from Anthony Levandowski and Stroz Friedberg.
5 The Court’s extended deadline of June 23 should be retained for Uber’s compliance with Item #2
6 relating to Mr. Levandowski and Stroz Friedberg.

7 ***With respect to Mr. Levandowski:*** Waymo does not challenge the extended June 23
8 deadline for portions of Item #2 “addressing Defendants’ potential discipline of
9 Mr. Levandowski.” (Dkt. 485 at 2-3.) Mr. Levandowski has moved to intervene to seek
10 modification of the Court’s Preliminary Injunction Order on the basis of his asserted Fifth
11 Amendment privilege. (Dkt. 466.) Waymo argues that Mr. Levandowski’s motion pertains only
12 to subsection (b) of Item #2 (concerning the return of downloaded materials) and not to
13 subsection (a) (concerning the prevention of use of downloaded materials). (Dkt. 485 at 1-2.) In
14 fact, Mr. Levandowski’s motion addresses the entirety of Item #2, as it asks the Court to
15 withdraw the complete preamble of Item #2 as it pertains to Mr. Levandowski. (Dkt. 466 at 9.)
16 Further, Waymo concedes that the deadline is properly extended as to “subsection (b) addressing
17 Defendants’ potential discipline of Mr. Levandowski should he fail to provide relevant materials
18 and information.” (Dkt. 452 at 2-3.) Accordingly, the Court’s extended deadline of June 23
19 should continue to apply to all of Item #2 as it pertains to Mr. Levandowski, to “permit full
20 briefing and hearing on Levandowski’s motion.” (Dkt. 471.)

21 ***With respect to Stroz Friedberg:*** Waymo contends that the May 31 compliance deadline
22 should be reinstated for Item #2 as it pertains to Stroz and the Stroz Due Diligence Report.
23 However, as Waymo knows, Uber has asserted attorney-client privilege and work product
24 protection over the Stroz Due Diligence Report and its exhibits, and Waymo’s motion to compel
25 production of that report is scheduled for hearing in front of Magistrate Judge Corley on
26 May 25, 2017. Mr. Levandowski has also intervened to assert privilege protection over the Stroz
27 Due Diligence Report and exhibits. (Dkt. 371, 379.) The extended compliance deadline of
28 June 23 should be retained for Item #2 as it pertains to Stroz to allow time for the Magistrate

1 Judge to rule on Waymo's motion to compel and for any subsequent appeal to the district court or
2 Federal Circuit.

3 Dated: May 23, 2017

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5 By: /s/ Arturo J. González
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